

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

JOHN DOE

Plaintiff,

V.

KARL KUHN, in his official capacity as head coach of the baseball team at Radford University, and

ROBERT LINEBURG, in his official capacity as athletics director at Radford University

Defendants.

Case No. 7:23cv00209

PLAINTIFF'S MOTION TO PROCEED UNDER A PSEUDONYM

John Doe¹, by counsel, moves this Court for an order allowing him to proceed under a pseudonym, and for a protective order prohibiting Defendants from disclosing his identity.

Mr. Doe is a college student who suffered retaliation after he complained about misconduct involving a university employee. He filed a lawsuit alleging that the Defendants violated his First Amendment rights. His case arises out of facts of a highly sensitive and personal nature – his race, his medical condition (and mental health), and the university’s failure to protect him as a freshman student. He thus requests leave to proceed under a pseudonym, and also a protective order to shield his identity. Without such an order, he believes that his privacy will be lastingly and unnecessarily violated, and he will be rendered powerless to remedy the very purpose of his litigation, which is to be free from retribution and retaliation from the Defendants.

¹ “John Doe” is not Plaintiff’s real name. He is proceeding under a pseudonym. Defendants will not be prejudiced by permitting him to proceed anonymously because they have knowledge of the actual identity of John Doe.

While there is a presumption in favor of openness in the federal courts, parties may proceed under a pseudonym in appropriate cases. In *James v. Jacobson*, 6 F.3d 233 (4th Cir. 1993), the Fourth Circuit identified a number of factors bearing on the propriety of anonymity from prior cases, including:

[1] whether the justification asserted by the requires party is merely to avoid the annoyance and criticism that may attend any litigation or is to preserve privacy in a matter of sensitive and highly personal nature;

[2] whether identification poses a risk of retaliatory physical or mental harm to the requesting party or even more critically, to innocent non-parties;

[3] the ages of the persons whose privacy interests are sought to be protected;

[4] whether the action is against a governmental or private party; and relatedly; and

[5] the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously.

Id. At 238. These factors are not exhaustive; rather, the court must “carefully review all the circumstances of a given case and then decide whether the customary practice of disclosing the plaintiff’s identity should yield to the plaintiff’s privacy concerns.” *Doe II v. Pittsylvania County*, 844 F. Supp.2d 724, 729 (W.D. Va. 2012) (citations omitted).


The *Jacobson* factors support Plaintiff’s motion. Mr. Doe is seeking to preserve privacy in a sensitive and highly personal nature: his academic records, which are subject to federal law regarding their confidentiality, and his medical condition. Identification of him risks retaliation from Defendants and others for pursuing vindication of his Constitutional rights. The action is against state actors acting in their capacity as government employees. The risks to the Defendants are minimal, as the Defendants are already aware of Mr. Doe’s identity.

WHEREFORE, Mr. Doe moves this Court to grant leave to proceed under a pseudonym and for a protective order prohibiting Defendants from disclosing his identity.

April 11, 2023

Respectfully submitted,

JOHN DOE

By: 
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